



RICHARD DOYLE, City Attorney (#88625)
 GEORGE RIOS, Assistant City Attorney (#77908)
 ROBERT FABELA, Sr. Deputy City Attorney (#148098)
 Office of the City Attorney
 200 East Santa Clara Street
 San José, California 95113-1905
 Telephone Number: (408) 535-1900
 Facsimile Number: (408) 998-3131
 E-Mail Address: cao.main@sanjoseca.gov

Attorneys for CITY OF SAN JOSE

UNITED STATES DISTRICT COURT
 NORTHERN DISTRICT OF CALIFORNIA
 SAN JOSE DIVISION

JUAN DIAZ, KEITH KEESLING,
 CHRISTOPHER MURPHY, GARY
 WEEKLEY, KAREN ALLEN and other
 employees similarly situated,

Plaintiffs,

v.

CITY OF SAN JOSE,

Defendant.

Case Number: C07-06424 JW

**SECOND STIPULATION AND
 [PROPOSED] ORDER EXTENDING
 THE EARLY NEUTRAL EVALUATION
 PERIOD**

STIPULATION

Pursuant to the stipulation of the parties, the Court, on April 23, 2008, ordered the matter to Early Neutral Evaluation ("ENE") and appointed Thomas Gosselin, Esq. as the evaluator. The parties engaged in an ENE session before Mr. Gosselin on July 21, 2008. At the end of session, it was determined that it would be most efficient for the parties and the court, and would more likely result in the informal resolution of this matter, were the parties to engage in another ENE session with Mr. Gosselin after having a reasonable opportunity to further study the scope of the claims and damages being asserted by Plaintiffs under the Fair Labor Standards Act. The parties also agreed to attempt to address the related case, *Welch*

1 v. *City of San Jose* (Case No. C08-02132 JW) at the second ENE, as some of the legal
 2 issues overlap in the two cases. Combining the ENE of *Diaz v. City of San Jose* and *Welch*
 3 v. *City of San Jose* would further promote efficiency for the parties and the court.

4 The parties subsequently scheduled another joint ENE session with Mr. Gosselin for
 5 September 18, 2008. The parties have met and conferred, have notified Mr. Gosselin, and
 6 have determined that extending the date of for the parties to engage in the second ENE
 7 session would foster more effective discussions in order to allow the City sufficient time to
 8 analyze these complex issues as it relates to its entire Fire Department staff dating back two
 9 or three years.

10 As such, the parties, with Mr. Gosselin's support, stipulate through counsel that the
 11 ENE period will be extended up through and including October 31, 2008, by which time the
 12 parties will schedule another ENE session.

13 WYLIE, MCBRIDE, PLATTEN & RENNER

14
 15 Dated: September 12, 2008

By: /s/ Christopher Platten
 CHRISTOPHER PLATTEN

16
 17 Attorney for Plaintiffs, JUAN DIAZ, KEITH
 18 KEESLING, CHRISTOPHER MURPHY,
 19 GARY WEEKLEY, and KAREN ALLEN

RICHARD DOYLE, City Attorney

20
 21 Dated: September 12, 2008

By: /s/ Robert Fabela
 ROBERT FABELA
 Sr. Deputy City Attorney

22
 23 Attorney for Defendant CITY OF SAN JOSE
 24
 25
 26
 27
 28

1 ATTESTMENT OF CONCURRENCE PER GENERAL ORDER 45 FOR FILING:

2 I attest that concurrence in the filing of this document by the signatories, Robert
3 Fabela and Christopher Platten, has been obtained, and that a record of the concurrence
4 shall be maintained at the Office of the City Attorney.

5 Date: September 12, 2008

By: /s/ Robert Fabela
ROBERT FABELA

[PROPOSED] ORDER

IT IS HEREBY ORDERED that the ENE period shall be extended up through and including October 31, 2008, by which time the parties will schedule another ENE session with the Evaluator regarding both the present case as well as *Welch v. City of San Jose* (Case No. C08-02132 JW).

Dated: September ____, 2008

UNITED STATES DISTRICT JUDGE